

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

FILED

JUL 11 2006

CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS

RAVINDRA KUMAR,

Petitioner,

V.

ALBERTO R. GONZALES*, Attorney
General,

Respondent.

No. 03-74463

Agency No. A79-602-600

MEMORANDUM**

On Petition for Review of an Order of the
Board of Immigration Appeals

Argued and Submitted April 4, 2006
San Francisco, California

Before: BERZON, RAWLINSON, and CALLAHAN, Circuit Judges.

1. Because the Immigration Judge's (IJ) adverse credibility finding regarding the extent of Petitioner's volunteer work at the YMCA is supported by substantial evidence, Petitioner's challenge to denial of asylum and withholding of removal

* Alberto R. Gonzales is substituted for his predecessor, John Ashcroft, as Attorney General of the United States, pursuant to Fed. R. App. P. 43(c)(2).

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fails. This information goes to the heart of Kumar's claim because his assertion of persecution revolved around his work for the YMCA. *See Li v. Ashcroft*, 378 F.3d 959, 964 (9th Cir. 2004) (explaining that as long as one of the IJ's identified grounds underlying an adverse credibility finding is supported by substantial evidence and goes to the heart of the petitioner's claims of persecution, we are bound to accept the adverse credibility finding); *see also Chebchoub v. INS*, 257 F.3d 1038, 1043 (9th Cir. 2001) (recognizing that an inconsistency in the details of the events upon which asylum is based goes to the heart of the claim).

2. Alternatively, even if Kumar is deemed credible, substantial evidence supports the IJ's conclusion that Kumar failed to establish eligibility for asylum. The harm that Kumar suffered before coming to the United States does not rise to the level of persecution. *See Ghaly v. INS*, 58 F.3d 1425, 1431 (9th Cir. 1995) (“[P]ersecution is an extreme concept that does not include every sort of treatment our society regards as offensive.”) (citation omitted); *see also Xiaoguang Gu v. Gonzales*, 429 F.3d 1209, 1214 (9th Cir. 2005) (referencing “repeated lengthy and severe harassment” in describing a case where a finding of persecution was compelled).

3. Because Kumar cannot establish eligibility for asylum, his claim for withholding of removal necessarily fails. *See de Leon-Barrios*, 116 F.3d 391, 394 (9th Cir. 1997).

4. Substantial evidence also supports the IJ's denial of Kumar's Convention Against Torture claim because he failed to show it was more likely than not that he would be tortured if removed to India. *See Zhang v. Ashcroft*, 388 F.3d 713, 721-22 (9th Cir. 2004) (describing torture as an “extreme form of cruel and inhuman treatment”) (citation omitted).

PETITION DENIED.